IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1189 OF 2005

M/s. Vardhman Developers Ltd. ... Petitioners

V/s

Mrs. Vijaya Netaji Bhosale & ors. ... Respondents

Mr. D.J. Lulia for the petitioners.

Mr. A.N. Jakhade for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 27TH FEBRUARY, 2006

P.C.:

1. Heard learned counsel for both parties. Perused the record.

2. Rule. Rule made returnable forthwith.

3. The petitioner has preferred this petition against the order dated 23.1.2006 passed by the Addl. Chief Judge, Small Causes Court, Mumbai, which was passed below Exh.5 in Appeal No. 48 of 2006 in R.A.E. Suit No. 272 of 2003 allowing the application of the respondent staying the execution and operation of the

judgment and order passed by the Trial Court in R.A.E.Suit No. 272 of 2003 pending the appeal with direction to maintain status-quo during the said period.

4. The respondent filed Appeal No. 48 of 2006 against the judgment and order passed in R.A. Suit No. 272 of 2003 dated 23.9.2005 and in the course of the said appeal an application Exh.5 was filed for stay.

5. After hearing the parties, the lower appellate Court was of the view that since the appeal had been admitted by the Court, stay in respect of the execution and operation of the impugned judgment and decree was required to be granted and if the stay was not granted, the very purpose of filing the appeal was likely to be frustrated.

The learned counsel for the respondent makes a statement that the appeal is fixed for hearing in the lower appellate Court on 8.3.2006 and both parties have no objection if the direction is issued to the said lower appellate Court to hear and dispose of the said matter on the date already fixed. It is also submitted that there are in all seven common appeals amongst parties and all the appeal are fixed on the said date.

6. In view of this position, interest of justice would be met if all the appeals are directed to be heard and disposed of expeditiously. This is especially so, when it is submitted on behalf of the petitioner that, in all the above seven suits common evidence was led and the suits were decreed. The defendants in the said involved suits are tenants in the property and the development of the said property is hindered by the said stay order granted by the lower appellate Court.

6. Under the circumstances, the Rule is made absolute.

The lower appellate Court is directed to hear the said seven appeals wherein common evidence is to be considered on 8.3.2006 when the matters are already fixed or any convenient date in the month of March, 2006 so as to dispose of all the matters by the end of 6.5.2006.

With this direction, the petition stands disposed of with no order as to costs.

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